



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Beverly Hertzoff, Edwin Hertzoff, and  
Clayton Hertzoff,

Plaintiff(s),

07 Civ. 03157 (CM) (MHD)

-against-

Noreen Diaz and United Orthopaedic  
Appliances Co. Inc.,

Defendant(s).

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ORDER RE SCHEDULING AND  
INITIAL PRETRIAL CONFERENCE

McMAHON, District Judge.

This action having been assigned to me for all purposes, it is hereby,

ORDERED as follows:

1. Counsel receiving this order shall promptly mail copies hereof to all other counsel of record or, in the case of parties for which no appearance has been made, to such parties.
2. Counsel for **all** parties are directed to confer regarding an agreed scheduling order. If counsel are able to agree on a schedule **and the agreed schedule calls for filing of the pretrial order not more than six (6) months from the date of this order**, counsel shall sign and mail or fax **within forty-five (45) days from the date hereof** a consent order in the form annexed for consideration by the Court. **The trial ready date shall be left blank.** If such a consent order is not filed within the time provided, a conference will be held on 6/29/2007 in courtroom 21B, 500 Pearl Street, New York, New York 10007 at 11:45 a.m.
3. Any party desiring a conference with the Court for purposes of discussing settlement, narrowing of issues, or other pertinent pretrial matters may request a conference by letter.
4. If a motion is filed prior to the conference date, the parties must attend the conference, even if counsel consent to a scheduling order. Upon request, the court will adjourn the conference until the motion is fully briefed.
5. Parties are to follow Judge McMahon's practice rules. Those rules can be found on the Court's website [www.nysd.uscourts.gov](http://www.nysd.uscourts.gov)

A handwritten signature in black ink, appearing to read "Colleen McMahon".

Hon. Colleen McMahon  
United States District Judge

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Consent Scheduling Order

Upon consent of the parties, it is hereby

ORDERED as follows:

1. Rule 26(a) discovery must be exchanged on or before \_\_\_\_\_.
2. No additional parties may be joined after \_\_\_\_\_.
3. No amendments to the pleadings will be permitted after \_\_\_\_\_.
4. All discovery shall be completed on or before \_\_\_\_\_. (In personal injury, civil rights, employment discrimination or medical malpractice cases: plaintiff's deposition shall proceed first and must be completed by \_\_\_\_\_.) "All discovery" includes expert discovery. This means that expert disclosure pursuant to Fed. R. Civ. P. 26(a)(2) (B) must be made *well before* the discovery deadline. Rule 26(a)(2) disclosures must be made no later than (for plaintiff's expert report): \_\_\_\_\_; (for defendant's expert report) \_\_\_\_\_.
5. Do not contact Judge McMahon about discovery disputes; go directly to your assigned Magistrate Judge. An order of reference to your assigned Magistrate Judge is attached to this consent scheduling order form. Please provide the Magistrate Judge with the Order of Reference on or before a scheduled appearance pertaining to discovery issues.
6. A joint pretrial order in the form prescribed in Judge McMahon's individual rules shall be filed on or before \_\_\_\_\_, together with trial memoranda of law. The court will then schedule a final pretrial conference. In limine motions must be filed within five days after receipt of notice of a final pre-trial conference; responses to in limine motions are due five days after the motions are made. Cases can be called for trial at any time after the final pre-trial conference.
7. No motion for summary judgment shall be served after the deadline fixed for submission of the pretrial order. *The filing of a motion for summary judgment does not relieve the parties of the obligation to file the pretrial order on time.*

8. If any party claims a right to trial by jury, proposed voir dire questions and jury instructions shall be filed with the joint pretrial order.
9. Any party seeking damages from any other party must append to this statement a one-page addendum explaining the factual and legal basis for the claimed damages, explaining how you propose to prove damages and setting forth a calculation of anticipated damages.
10. This scheduling order may be altered or amended only on a showing of good cause not foreseeable at the date hereof. *Counsel should not assume that extensions will be granted as a matter of routine.*

Dated:

New York, New York 10007

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Hon. Colleen McMahon  
United States District Judge

CONSENTED TO: [signatures of all counsel]